

INTER-OFFICE COMMUNICATIONS

Palm Beach County, Florida

TO: John Sansbury, County Administrator  
Lisa Heasley, County Attorney's Office  
Herb Kahlert, County Engineer  
David Bludworth, State Attorney  
Joy Shearer, Asst. Attorney General  
Captain Cook, Sheriff's Dept. - Civil  
Jerry Nolan, Director of Admin. - Sheriff's Office  
John Lehner, Planning, Zoning & Bldg.  
Bob Palchanis, Building Division, Director  
Tom McEaddy, Assistant County Attorney  
Patty Young - 4th District Court of Appeals  
Law Library  
(2) County Library  
Pinky Yount, PBC Municipal League Inc.

DATE: June 25, 1986

- Denise Smyth, Finance  
- John Flynn, "  
- Wanda Isenburg, "  
- Judy Hemberger, "

FROM: John W. Dame, Chief Deputy Clerk

RE: PALM BEACH COUNTY ORDINANCE DISTRIBUTION

ORDINANCE NO. 86-17

TITLE REFERENCE:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF  
PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 2, 13,  
AND 18 OF PALM BEACH COUNTY ORDINANCE NO. 86-2,  
REGARDING THE MANDATORY GARBAGE AND WASTE COLLECTION  
AND DISPOSAL PROCEDURES WITHIN THE SEVEN (7)  
MUNICIPAL SERVICE BENEFIT UNITS IN THE UNINCORPORATED  
AREA OF PALM BEACH COUNTY, FLORIDA FOR THE PURPOSE OF  
AMENDING THE DEFINITIONS OF BULK GARDEN TRASH AND  
DWELLING UNITS; TO AUTHORIZE THE BOARD TO SELECT A  
DESIGNEE, IF DESIRED, TO HEAR PETITION APPEALS; AND  
PROVIDING VARIOUS OTHER CHANGES FOR THE EFFECTIVE AND  
EFFICIENT IMPLEMENTATION OF SAID PROCEDURES; AND  
PROVIDING FOR SEVERABILITY, PENALTIES, REPEAL OF  
CONFLICTING ORDINANCES, INCLUSION IN THE CODE OF LAWS  
AND ORDINANCES AND EFFECTIVE DATE.

Attached is a copy of the above referenced Ordinance of Palm Beach  
County. This Ordinance has been filed with Florida Department of State  
and forwarded to Municipal Code Corporation for codification. The  
effective date is June 25, 1986 at 4:42 P.M.

Signed

John W. Dame  
Deputy Clerk

JWD:

Attachment

\* cc: Commissioners, BCC  
Clerk  
Minutes

\*If a complete copy of ordinance is needed, please advise this office  
and we will be happy to provide a copy.

1  
ORDINANCE NO. 86-17

2 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF  
3 PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 2, 13,  
4 AND 18 OF PALM BEACH COUNTY ORDINANCE NO. 86-2,  
5 REGARDING THE MANDATORY GARBAGE AND WASTE COLLECTION  
6 AND DISPOSAL PROCEDURES WITHIN THE SEVEN (7)  
7 MUNICIPAL SERVICE BENEFIT UNITS IN THE UNINCORPORATED  
8 AREA OF PALM BEACH COUNTY, FLORIDA FOR THE PURPOSE OF  
9 AMENDING THE DEFINITIONS OF BULK GARDEN TRASH AND  
10 DWELLING UNITS; TO AUTHORIZE THE BOARD TO SELECT A  
11 DESIGNEE, IF DESIRED, TO HEAR PETITION APPEALS; AND  
12 PROVIDING VARIOUS OTHER CHANGES FOR THE EFFECTIVE AND  
13 EFFICIENT IMPLEMENTATION OF SAID PROCEDURES; AND  
14 PROVIDING FOR SEVERABILITY, PENALTIES, REPEAL OF  
15 CONFLICTING ORDINANCES, INCLUSION IN THE CODE OF LAWS  
16 AND ORDINANCES AND EFFECTIVE DATE.

17 WHEREAS, it is appropriate to amend Palm Beach County's  
18 Mandatory Garbage and Waste Collection and Disposal procedures to amend  
19 the definitions of bulk garden trash and dwelling units to clarify the  
20 intent and scope of those definitions, and

21 WHEREAS, it is appropriate to authorize the Board to select a  
22 designee, if desired, to hear petition appeals, and

23 WHEREAS, it is appropriate to make other amendments for the  
24 effective and efficient implementation of said procedures.

25 NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
26 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA that:

27 Part I - Subsections C and I of Section 2, Definitions, of Ordinance No.  
28 86-2, are amended as follows:

29 C. Bulk Garden Trash: Large cuttings of all vegetative and  
30 wood matter, such as, but not limited to, grass, -leaves, -palm-fronds,  
31 tree branches and tree hedge trimmings and which are a part of normal  
32 yard material and which cannot be cut for placement in a container, bag,  
33 or tied bundle due to such trash exceeding the weight and size  
34 restrictions provided under this Ordinance for a regular residential  
35 collection. However, such trash shall not include any form of matter or  
36 debris from tree removals, land clearing, land development, building  
37 demolitions or home improvement and further, all trash items which  
38 can be cut for placement in a container, bag or tied bundle for  
39 regular residential collection must be processed in that manner.

1           I. Dwelling Unit: An individual living unit with kitchen  
2 facilities. ~~and shall include a house, apartment, efficiency apartment,~~  
3 ~~mobile home and all other habitations commonly used as residences; such~~  
4 ~~terms shall not mean a room in a motel or hotel.~~

5           Part II - Section 13, Correction of Errors and Omissions, Petition to  
6 Board, of Ordinance No. 86-2, is amended as follows:

7           SECTION 13. CORRECTION OF ERRORS AND OMISSIONS.

8           PETITION TO BOARD:

9           No act of error, omission or commission on the part of the  
10 Property Appraiser, Tax Collector, Board, Clerk of their deputies or  
11 employees, or other Board designee shall operate to defeat the payment of  
12 the annual collection special assessment imposed by the Board under the  
13 provisions of this Ordinance. Provided, however, any errors of omission  
14 or commission may be corrected at any time by the officers or party  
15 responsible for them in like manner as provided under this Ordinance for  
16 performing such acts in the first place, and when so corrected they shall  
17 be construed as valid ab initio and shall in no way affect any process by  
18 law for the enforcement of the annual collection special assessment  
19 imposed under the provisions of this Ordinance.

20           The Board shall have the authority, at any time, upon its own  
21 initiative or in response to a petition from any affected owner of  
22 residential units to correct any error of omission or commission in the  
23 adoption of any annual collection special assessment roll or in the  
24 implementation of this Ordinance, including but not limited to, an error  
25 in including any residential unit on such roll when such real property is  
26 not a residential unit within the scope of this Ordinance and any error  
27 in the calculation of the annual collection special assessment imposed  
28 against any residential unit.

29           For each service year any owner of real property may petition  
30 the Board or Board designee to correct any asserted error of omission or  
31 commission in relation to his property in the adoption of the annual  
32 collection special assessment roll or in the implementation of this  
33 ordinance but such petition must be initiated within one hundred and  
34 twenty (120) days of the date the asserted error took place. Such

1 petition shall be initiated by filing with the Clerk of the Circuit Court  
2 acting as the Clerk of the Board, a written petition containing the name  
3 of the owner, a legal description of the real property affected, a  
4 summary description of the asserted error and the relief requested of the  
5 Board. Such petition shall be considered by the Board or Board designee  
6 at any regular or special meeting. The filing of a petition authorized  
7 by this section will stay all proceedings and implementation of this  
8 Ordinance concerning the property which is the subject of the petition  
9 until there is a final decision of the Board or Board designee as  
10 provided herein. A petition shall be applicable only for the service  
11 year in which the asserted error of omission or commission occurred.

12 If upon consideration of the petition as authorized herein, the  
13 Board or Board designee determines, based upon information and data  
14 available through the County designees, officers or parties responsible  
15 for implementation of the Ordinance as it pertains to performing those  
16 acts applicable to the alleged error of omission or commission, that  
17 granting the relief as requested in the petition cannot be supported  
18 based on said available information and data, then the Board or Board  
19 designee shall notify the owner as contained in the petition, by  
20 certified or registered mail, return receipt requested, of the right to  
21 request a hearing before the Board on a date not to exceed forty-five  
22 (45) days from the date the Board initially considers the petition.  
23 Unless said hearing is requested by the owner within fourteen (14) days  
24 of the receipt of said notice then the initial consideration of the  
25 petition by the Board or Board designee shall be final and no refiling or  
26 reconsideration shall be considered. In the event, the Board or Board  
27 designee is unable to notify the owner by mail, as provided herein, of  
28 the right to request a hearing, the Board shall set a hearing at the  
29 earliest possible date, not to exceed forty-five (45) days from the date  
30 the Board or Board designee initially considers the petition. Reasonable  
31 notice of all hearings shall be provided by the Clerk of the Circuit  
32 Court acting as Clerk to the Board. Formal Rules of Evidence shall  
33 not apply to such hearings, but fundamental due process shall be  
34 observed and shall govern the proceeding. Petitioner and the County  
35 shall have the right to:

- 1        1. Call and examine witnesses;
- 2        2. Introduce exhibits;
- 3        3. Cross-examine witnesses on any relevant matter; and
- 4        4. Rebut the evidence.

5        At all hearings the Board or Board designee shall hear and consider all  
6        facts material to the petition and thereafter the Board or Board  
7        designee, also considering the provisions of this Ordinance, and  
8        amendments thereto, as well as the purposes and intent thereof, may grant  
9        or deny, partially or wholly, the relief requested in the petition. The  
10      decision of the Board or Board designee resulting from a hearing shall be  
11      final, and no petition for rehearing or reconsideration shall be  
12      considered. Any person, including Palm Beach County and the petitioner,  
13      who is aggrieved by any decision of the Board or Board designee may apply  
14      for a review by writ of certiorari in accordance with the applicable  
15      Florida Appellate Rules. However, this provision shall not be construed  
16      to limit any other remedy provided by law.

17        All owners of residential units whose property is subject to a  
18        petition shall have until the first day of May of each service year of  
19        thirty (30) days from the date the Board or Board designee makes a final  
20        decision on the relief requested in the petition, whichever provides a  
21        greater time period, to pay the amounts due under this Ordinance.

22        However, the said thirty (30) day expiration period for payment  
23        of the annual special assessment shall not prevent or limit the ability  
24        of the owner of the residential unit, to make arrangements for equal  
25        quarterly installment payments of the special assessment, subject to the  
26        terms and conditions as provided under Section 11 of this Ordinance,  
27        except that all such requests for quarterly installment payments shall be  
28        made within fifteen (15) days from the date the Board or Board designee  
29        make a final decision on the relief requested in the petition.

30        Part III - Section 18, Responsibilities of Franchisee and Customers for  
31        Garbage and Waste Collection, of Ordinance No. 86-2, is hereby amended as  
32        follows:

1                   SECTION 18. RESPONSIBILITIES OF FRANCHISEE AND CUSTOMER FOR  
2 GARBAGE AND WASTE COLLECTION:

3                   The franchisees shall collect from, and customers shall provide  
4 for collection, as follows:

5                   A. Residential Units: Twice per week collection at the curb,  
6 (within six feet) or closest accessible public right of way, the customer  
7 shall be allowed unlimited pickup provided all garbage and waste is  
8 properly containerized in containers approved by the franchisee, not to  
9 exceed thirty-two (32) gallons, or in sealed plastic bags or tied  
10 bundles, not exceeding four (4) feet in length. No aforescribed  
11 container, bag or bundle may exceed fifty (50) pounds in weight. Ingress  
12 and egress on private roads must be provided by the customer. However,  
13 if said private road is inaccessible, the customer's containers shall be  
14 placed on the closest public right-of-way that is accessible to the  
15 authorized franchisee but as not to obstruct motor vehicle traffic or  
16 pedestrian passage or surface storm drainage. In addition, upon request  
17 by the owner of a residential unit, the franchisee shall provide for a  
18 separate, scheduled pickup of junk, as defined herein, and such service  
19 shall be unlimited as to quantity, size and weight, however, it shall be  
20 placed at the curb and shall not include vehicles, vehicle component  
21 parts or liquid waste. Further, the junk shall be disassembled, if  
22 possible, prior to pickup by the franchisee. The franchisee shall  
23 schedule the pickup of said unlimited junk within seventy-two (72) hours,  
24 exclusive of weekends and holidays, of being requested by the owner of a  
25 residential unit for such service. Additionally, each franchisee shall  
26 also provide bulk garden trash collection service within fourteen (14)  
27 days of being requested by the owner of a residential unit. Residents  
28 should call the residential franchisee for processing information and  
29 pickup schedule prior to placing such bulk items at the curb. No  
30 commercially generated garbage, waste, junk or bulk garden trash will be  
31 collected by the residential franchisee. The pickup of unlimited junk  
32 and bulk garden trash as provided herein, shall be included in the annual  
33 special assessment imposed herein, without any additional assessment,  
34 service charge, fee or tax to be imposed by the Board or franchisee for  
35 such service. If a normal collection day falls on a holiday, then

1 service shall be provided for the next scheduled pickup day, in addition  
2 to normal collection. All collections under the terms of this ordinance  
3 shall be made in a neat and workman-like manner and any spillage caused  
4 by the franchisee shall be removed by the franchisee.

5                   B. Commercial Property: A minimum of once per week service is  
6 required of all customers, however, where garbage, as defined herein, is  
7 generated a minimum of twice per week, collection is required. Such  
8 service shall be provided by mechanical container as defined herein.  
9 However, where a customer generates one cubic yard or less per week of  
10 garbage and waste, alternate non-mechanical containers may be utilized.  
11 Customers generating one cubic yard or less per week shall be charged at  
12 the minimum cubic yard rate as established; however, commercial property  
13 consisting of at least one dwelling unit may utilize non-mechanical  
14 containers if such property elects to receive the same type of collection  
15 service provided residential units, but in the event of such election the  
16 customer shall be charged by the designated commercial franchisee the  
17 same rate and in the same manner for each dwelling unit comprising the  
18 commercial property that residential units billed by the residential  
19 franchisee are subject to within the district in which the commercial  
20 property is located. Such residential service shall not affect the  
21 obligation of the designated commercial franchisee to collect from such  
22 property. The size of the mechanical container and the frequency of  
23 collection, unless residential service is elected as provided herein,  
24 shall be determined between the customer and the franchisee except as  
25 specified herein. However, size and frequency shall provide that no  
26 garbage and waste need be placed outside the mechanical container.  
27 Storage capacity shall be suitable for the amount of garbage and waste  
28 generated by the customer. Franchisee shall provide mechanical  
29 containers as necessary, however, customers may acquire their mechanical  
30 container from any source provided that the source or customer is  
31 completely responsible for its maintenance in accordance with the minimum  
32 requirements stated herein. Such mechanical containers shall be of a  
33 type that can be serviced by the franchisee's equipment. If a normal  
34 collection day falls on a holiday, then service shall be provided the  
35 next scheduled pickup day, in addition to normal collection.

1      **Part IV - Severability:**

2              If any clause, section, or provision of this ordinance shall be  
3 declared to be unconstitutional or invalid for any cause or reason, the  
4 same shall be eliminated from this Ordinance and the remaining portion of  
5 this Ordinance shall be in full force and effect and be as valid as if  
6 such invalid portion thereof had not been incorporated therein.

7      **Part V - Penalties:**

8              Violations of this Ordinance shall be prosecuted in the same  
9 manner as misdemeanors are prosecuted and upon conviction shall be  
10 punished by fine not to exceed five hundred dollars (\$500.00) or by  
11 imprisonment in the County Jail not to exceed sixty (60) days or by both  
12 fine and imprisonment.

13     **Part VI - Repeal of Conflicting Ordinances:**

14              The provisions of any other Palm Beach County Ordinance that  
15 are inconsistent or in conflict with the provisions of this Ordinance are  
16 repealed to the extent of such inconsistency or conflict.

17     **Part VII - Inclusion in the Code of Laws and Ordinances:**

18              The provisions of this ordinance shall become and be made a  
19 part of the code of laws and ordinances of Palm Beach County, Florida.  
20 The Sections of the ordinance may be renumbered or relettered to  
21 accomplish such, and the word "ordinance" may be changed to "section,"  
22 "article," or any other appropriate word.

23     **Part VIII - Effective Date:**

24              The provisions of this ordinance shall become effective upon  
25 receipt of acknowledgement by the Secretary of State.

1 APPROVED AND ADOPTED by the Board of County Commissioners of  
2 Palm Beach County, Florida, on the 10th day of June, 1986.

3 PALM BEACH COUNTY, FLORIDA, BY ITS  
4 BOARD OF COUNTY COMMISSIONERS

5 By Karen M. Morris  
6 Chairman

7 APPROVED AS TO FORM AND  
8 LEGAL SUFFICIENCY

9 John M. Kelly  
10 County Attorney

11 Acknowledgement by the Department of State of the State of  
12 Florida, on this, the 23rd day of June, 1986.

13 EFFECTIVE DATE: Acknowledgement from the Department of State  
14 received on the 25th day of June, 1986, at 4:42  
15 P.M., and filed in the Office of the Clerk of the Board of County  
16 Commissioners of Palm Beach County, Florida.

STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, JOHN B. DUNKLE, ex-officio Clerk of the  
Board of County Commissioners, certify this to  
be a true and correct copy of the original filed in  
my office on 6/10/86  
DATED at West Palm Beach, FL on 6/27/86  
JOHN B. DUNKLE, Clerk  
By: John B. Dunkle D.C.